

Message Text

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51

ACTION EUR-12

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FM AMEMBASSY BONN

TO SECSTATE WASHDC PRIORITY 5890

INFO USMISSION GENEVA

AMEMBASSY ROME

AMEMBASSY BUCHAREST

USMISSION NATO BRUSSELS

AMEMBASSY PARIS

AMEMBASSY LONDON

USMISSION USUN NEW YORK

AMEMBASSY MOSCOW

USMISSION USBERLIN

C O N F I D E N T I A L BONN 16807

E.O. 11652: GDS

TAGS: PFOR, CSCE, IT

SUBJECT: ITALIAN POSITION ON ENEMY STATES CLAUSES

REF: STATE 232680

1. EMBASSY IS OF THE FIRM VIEW THAT ANY TRIPARTITE AND QUADRIpartite DISCUSSION HERE OF THE ITALIAN PROPOSALS RE ARTICLES 53 AND 107 WILL BRING MANY MORE PROBLEMS THAN IT WILL SOLVE. THE SUBJECT IS AN OLD AND VERY SENSITIVE ONE IN BONN AND HAS CREATED STRAINS IN FRG-THREE POWER RELATIONS, EVEN IN FAIRLY RECENT YEARS. FOR EXAMPLE, IT CAME UP (AND WAS QUICKLY PUT ASIDE) DURING THE FRG-ALLIED CONSULTATIONS WHICH LED TO THE NEGOTIATION FOR FRG AND GDR ENTRY TO THE UN IN LATE 1972. THE CLAUSES WERE ALSO ONE OF THE ISSUES BETWEEN THE ALLIES AND THE FRG WHEN THE FRG AND SOVIETS WERE NEGOTIATING
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A TREATY OF NORMALIZATION IN 1970.

2. BASICALLY, THE FRG HAS LONG WANTED US TO STATE THAT THE ARTICLES ARE OBSOLETE AND, IF WE COULD BE BROUGHT THAT FAR, NO LONGER VALID. THE THREE POWERS ARE UNWILLING TO GO NEARLY THAT FAR: IN FACT, THESE ARTICLES (OR AT LEAST ARTICLE 107) PROVIDE US WITH THE GROUNDS TO ARGUE THAT QUADRIpartite RIGHTS AND RESPONSIBILITIES FOR GERMANY CONTINUE PENDING A FINAL PEACE TREATY. WE HAVE TAKEN THE POSITION THAT THE ARTICLES REMAIN UNAFFECTED UNLESS REMOVED BY AMENDMENT TO THE CHARTER OR UNLESS THE CONDITIONS ON WHICH THEY ARE BASED ARE TERMINATED (I.E., BY A PEACE TREATY).

3. THE THREE POWERS UNDOUBTEDLY COULD COME UP WITH SOME STATEMENT IN THE UN TO KEEP THE ITALIANS HAPPY, I.E., SUGGESTING THAT THE ARTICLES ARE NO LONGER IN VIEW OF ITALY'S HAVING CONCLUDED A PEACE TREATY IN 1947. HOWEVER, IN DOING SO, WE WOULD SIMPLY BE UNDERTAKING AN EFFORT THAT WOULD PUT THE FRG NOSE OUT OF JOINT. THE FRG WOULD BE SURE TO PRESS FOR THE SAME SORT OF STATEMENT TO COVER THEM, AND THIS WE COULD NOT PROVIDE. THE RESULTANT HEAT IS LIKELY TO BE CONSIDERABLE AND, IN OUR VIEW, NOT WORTH WHATEVER ADVANTAGE THERE MIGHT BE IN SUPPORTING THE ITALIANS IN THE UN.

4. EMBASSY'S STRONG RECOMMENDATION IS THAT THE THREE ALLIES STAY OUT OF THE UN CONTEXT AND ONLY AGREE TO SUPPORT ITALIAN FORMULATIONS IN THE CSCE CONTEXT (PARA 2, REFTEL) THAT, BY IMPLICATION, LEAVE THE STATUS OF ARTICLES 53 AND 107 UNDEFINED. IF DEPARTMENT AGREES WITH THIS LINE, WE WILL SOUND OUT UK AND FRENCH EMBASSIES HERE TO SEEK THEIR AGREEMENT. NEITHER OF THESE EMBASSIES IS APT TO WANT TO GET INTO ANY DISCUSSION OF THE DISPUTED ARTICLES WITH THE FRG: THE BONN GROUP HAS DEALT WITH THEM AT LENGTH AND TO NO AVAIL IN THE PAST. IN FACT, AS THE DEPARTMENT ITSELF STATED TO EMBASSY BONN ON SEPTEMBER 26, 1968 (STATE 245248): "AFTER CAREFUL CONSIDERATION OF FRG LEGAL POSITION, WE CONCLUDE THAT ATTEMPT TO REACH DETAILED AGREEMENT IN BONN GROUP ON SPECIFICS OF VARIOUS LEGAL APPROACHES RE ARTICLES
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53 AND 107 IS NOT LIKELY TO BE PRODUCTIVE AND MIGHT PROVE DIVISIVE.
HILLENBRAND

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